

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

YOULEE VANG,

Petitioner,

v.

PATRICK COVELLO,

Respondent.

No. 2:20-cv-0193 WBS KJN P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 23, 2020, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within thirty days. Petitioner filed objections to the findings and recommendations.¹


¹ Petitioner also filed a notice and appended a copy of the California Supreme Court's January 16, 2019 denial of the petition for review, which petitioner claims is proof that he exhausted state court remedies. (ECF No. 18.) However, as explained in the findings and recommendations, petitioner did not include the instant insufficiency of evidence claim in his petition for review before the California Supreme Court. (ECF No. 16 at 2, citing ECF No. 15-3 at 2.) Therefore, the denial of the petition for review does not exhaust petitioner's insufficiency of the evidence claim.

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
2 court has conducted a de novo review of this case. Having carefully reviewed the entire file, the
3 court finds the findings and recommendations to be supported by the record and by proper
4 analysis.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The findings and recommendations filed June 23, 2020, are adopted in full;
- 7 2. Respondent's motion to dismiss (ECF No. 14) is granted;
- 8 3. Petitioner's application for a writ of habeas corpus is dismissed, without prejudice, for
9 failure to exhaust state remedies; and
- 10 4. The court declines to issue the certificate of appealability referenced in 28 U.S.C.
11 § 2253.

12 Dated: August 5, 2020


WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

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